

**MINUTES**  
**Town of Crested Butte**  
**Regular Town Council Meeting**  
**Tuesday, September 7, 2021**

Mayor Schmidt called the meeting to order at 7:04PM.

Council Members Present: Chris Haver, Jason MacMillan, Jasmine Whelan, and Mona Merrill

Mallika Magner attended the meeting via Zoom.

Ian Billick was appointed to the Council during the meeting. The first motion on which he voted was to approve Ordinance No. 16, Series 2021. He voted on all motions thereafter.

Staff Present: Town Manager Dara MacDonald, Town Attorney Barbara Green, and Town Clerk Lynelle Stanford

Finance Director Rob Zillioux, Community Development Director Troy Russ, Parks, Recreation, Open Space and Trails Director Janna Hansen, and Town Planner II Mel Yemma (for part of the meeting)

Schmidt mentioned the preceding work session on the 2022 budget goals and priorities.

**APPROVAL OF AGENDA**

Haver moved and Whelan seconded a motion to approve the agenda. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**CONSENT AGENDA**

**1) August 18, 2021 Regular Town Council Meeting Minutes.**

***Staff Contact: Town Clerk Lynelle Stanford***

**2) August 30, 2021 Special Town Council Meeting Minutes.**

***Staff Contact: Town Clerk Lynelle Stanford***

**3) Vinotok Special Event Application, Closing the Four Way Parking Lot on Wednesday, September 22, 2021 for the Community Feast, Including a Mandala in the Four Way Parking Lot from Wednesday, September 15 to Thursday, September 23, 2021 and Various Sculpture Installations around Town from Sunday, September 12 to Thursday, September 23, 2021 and Special Event Liquor Permit Application for Wednesday, September 22, 2021.**

***Staff Contact: Town Clerk Lynelle Stanford***

**4) Quarter Two Financial Summary.**

**Staff Contact:** *Finance Director Rob Zillioux*

**5) Comment Letter from the Town Regarding White River National Forest Proposed Fee Changes.**

**Staff Contact:** *Parks, Recreation, Open Space and Trails Director Janna Hansen*

**6) Memorandum of Understanding Between the Town of Crested Butte and the USDA, Forest Service Regarding the Mt. Emmons Mining Company Land Exchange.**

**Staff Contact:** *Town Manager Dara MacDonald*

Schmidt listed the items on the Consent Agenda.

Haver moved and MacMillan seconded a motion to approve the Consent Agenda as written. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**APPOINTMENT OF TOWN COUNCIL MEMBER**

Schmidt acknowledged there were two applications. He reviewed the processes for speaking and for the Council appointing.

Ian Billick

- He had been involved in the community for about twenty years.
- It would be a privilege to serve the Town of Crested Butte.
- Schmidt asked Billick about time constraints being the head of RMBL.
- MacMillan questioned his experience related to the (Gunnison County) Planning Commission.
- Whelan asked how he was thinking about the affordable housing problem and solutions.
- Jim Day, from 427 Maroon, wondered whether Billick saw a place for modular ADUs.

Beth Goldstone

- She referred to her letter of interest in the packet.
- She worked for the school district, and her background required her to make analytical decisions.
- Schmidt asked Goldstone about her time constraints related to her obligations at the school.
- Whelan asked about her experiences on the Affordable Housing Taskforce and where she saw affordable housing going.

Schmidt spoke in support of Billick.

The Council members voted, and Billick prevailed.

Whelan moved and Haver seconded a motion to appoint Ian Billick to the Town Council. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

Billick took the Oath of Office, and he signed a hard copy. Billick voted on all remaining motions.

### **PUBLIC COMMENT**

Shaun Horne - 323 Whiterock Avenue

- He introduced himself and informed the Council he was running for Town Council.
- He identified that a camera on the speaker (at the podium) was missing with the Zoom system.
- When a Council member was speaking, the argument carried better with a camera on his or her face.

Anna Fenerty - 513 Belleview Avenue

- She introduced herself as running for Town Council.
- She agreed with Horne that the speaker should be on camera.

### **STAFF UPDATES**

- MacDonald updated that the Housing Authority was advertising for applicants at The Ruby. They were working on sending applicants through the background system and getting people in as soon as possible. MacDonald confirmed there had been eight applications in two weeks.
- MacDonald confirmed Kellie Cheever started last week.
- Whelan reminded the Council and the public of the upcoming Paradise Park neighborhood and community meeting at the Rec Path Bridge on Tuesday, September 14<sup>th</sup> at 5:30PM.
- Whelan announced the roller disco party at Big Mine to celebrate the unveiling of the mural.
- Haver asked about advertising for the Paradise Park meeting, which was outlined by Russ.
- Schmidt noted the new gate that would not be changing access to McCormick Ranch. Hansen confirmed access had not been impeded.
- Schmidt pointed out CPW was expecting a turbulent year regarding the designated camping roll out.
- Schmidt questioned whether there were numbers on the RV sewer dump. Hansen told him there would be an update forthcoming.
- Schmidt saw sales tax was still going up, including marijuana that increased this time.
- Haver thanked the Marshals for the collaborative roles with the incident in Almont.

- Stanford mentioned the Planning Commission meeting scheduled for September 27<sup>th</sup> was cancelled.
- Haver thanked Town Staff for keeping with their budgets.

### **LEGAL MATTERS**

Green mentioned that this past month they spent rewarding time working with Jessie Earley and Russ to pinpoint areas where they could make the BOZAR/DRC processes crisper. She reminded that Council had every legal right to set a closing time for meetings. She urged them to consider setting a deadline for when the meetings would end. Merrill and Magner agreed. The Council would discuss under Other Business.

Schmidt asked about Jessica Jay and Mt. Emmons. MacDonald confirmed Sullivan would remain the legal counsel on Mt. Emmons. Jay would assist with conservation easements related to mining.

### **PUBLIC HEARING**

**1) Ordinance No. 16, Series 2021 - An Ordinance of the Crested Butte Town Council Imposing a Moratorium on Accepting Applications for Reviewing, Approving, or Issuing Permits for Certain Accessory Buildings for Twelve Months.**

***Staff Contact: Community Development Director Troy Russ***

Schmidt read the title of the ordinance. Yemma explained the background regarding the ordinance. She reminded the Council the ordinance was conceptually brought forward during the housing emergency discussions. Yemma recognized there were opportunities to impact housing through ADUs. Staff recommended the moratorium to not miss the opportunity for ADUs to come online. Russ pointed out the moratorium would not apply to applications received but not yet approved by BOZAR. Green affirmed any application deemed complete would not be affected by the moratorium.

Schmidt confirmed proper public notice had been given. There were questions regarding the number of ADUs and whether the moratorium could end before 12 months. Schmidt explained his reasoning for bringing forward the moratorium, but now he felt like a moratorium was not necessary. The timeline was very stretched out. MacMillan was uncomfortable, and he wondered about providing carrots. Yemma reviewed options for people to build accessory structures during the moratorium. Russ reported on square footages allowed and FAR, responding to Haver. Russ acknowledged every unit and opportunity counted. Magner wanted to speak to how important ADUs were. It was important the Town not lose the solution to the pressing issue.

Schmidt opened the public hearing.

Beth Goldstone

- She thought ADUs were the best solutions for affordable housing.

- She asked why non-heated and non-plumbed were included in the moratorium. It would make it easier to not build something.

Jim Day - 427 Maroon Avenue

- He asked whether there was a way to streamline the BOZAR process for modular ADUs.
- He wondered whether there were thoughtful ideas on requiring or suggesting solar panels.

Russ identified that modular buildings were not prohibited.

Jim Starr - 323 Gothic Avenue

- He thought it was appropriate to consider the moratorium related to the housing emergency.
- They were on the way to losing the soul of the community, and the way to keep it was to allow people of different income levels to be interspersed.
- Whatever they could do to promote rental units was worth considering.
- He was fearful that without a moratorium there would be applications for accessory buildings that were not ADUs.
- He suggested a six-month moratorium.

Schmidt recalled the inception of the ordinance. Russ clarified the applications not yet received by the Town would be the ones affected. MacDonald recognized that Staff needed to understand housing holistically. Whelan identified they were asking for time to get on track for offering incentives to increase the building rates of ADUs. Ultimately, the process and data would be important. Haver questioned how many people would build just a garage that would have gone to having an ADU. Magner thought there were many ideas for incentives. It was an opportunity that should not be lost. Schmidt confirmed the public hearing had been closed.

The discussion continued regarding incentives and placing a moratorium on all accessory structures. Merrill would hate for people to choose the basic, unheated and unplumbed, when they could go the extra mile with incentives for ADUs. Billick was concerned about unintended consequences.

Magner moved and Whelan seconded a motion that they pass Ordinance No. 16, Series 2021. A roll call vote was taken with Whelan, Magner, Haver, and MacMillan voting, "Yes," and Schmidt and Billick voting, "No." **Motion passed.**

**2) Ordinance No. 17, Series 2021 - An Ordinance of the Crested Butte Town Council Approving a \$200 Monthly Pay Increase for Council Members and \$300 Monthly Pay Increase for Mayor.**

**Staff Contact: Finance Director Rob Zillioux**

Schmidt recognized the Charter stated the Mayor was to be paid more than Council members. Schmidt asked for comments from the public.

Shaun Horne - 323 Whiterock

- The turnover seen on Council was problematic.
- A larger pay increase could address everyone quitting.
- He was in favor of the small increase.

Magner referred to the chart in the packet related to what other Councils made in proportion to budgets. It would be irresponsible to vote for a raise in the context of what other Councils made. She did not think they wanted Council members on the Council who saw serving on Council as a second job. Whelan heard from people who thought about running and would have to give up one of three jobs. It would not be a huge increase. They were threading the needle to give enough of an incentive to participate meaningfully. She thought it made sense. Schmidt recalled missing driving shifts to attend meetings. MacMillan was in favor of the pay increase.

Schmidt confirmed proper public notice was given. He opened the public hearing.

Shaun Horne - 323 Whiterock Avenue

- The small money for the exposure excluded parts of the community from being here.

Jim Starr

- He supported what Magner said.
- What was being proposed, was the minimum of what they should be proposing.

Anna Fenerty

- The pay increase meant she would only have to work three jobs, rather than four jobs.
- It made it easier for her to run.

The public hearing was closed.

Billick asked about providing health insurance to Council members. MacDonald said the Council, for now, decided not to pursue health insurance.

Haver moved and Merrill seconded a motion to approve Ordinance No. 17, Series 2021. A roll call vote was taken with all voting, "Yes," except for Magner, who voted, "No."  
**Motion passed.**

**3) Application for a New Dispensary License for Apex Industries Inc DBA Harvest House Located at 322 Belleview Avenue, Suite 101.**

**Staff Contact: Town Clerk Lynelle Stanford**

Stacy Johnson was on Zoom representing Apex Industries Inc. He pointed out he had been working for about three years on this dispensary. Johnson reported on his background and history in Crested Butte. He was happy to answer questions. Stanford confirmed that background checks were completed, and Staff recommended approval.

Schmidt confirmed proper public notice was given. No one from the public commented, and the public hearing was closed. There were no Council comments.

Haver moved and MacMillan seconded a motion to approve the application for a Retail Marijuana Dispensary License by Apex Industries Inc DBA Harvest House. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

## **OLD BUSINESS**

### **1) Discussion of Affordable Housing Tax Implementation Ordinance.**

***Staff Contact: Community Development Director Troy Russ***

Russ outlined the timeline for discussion and adoption of the ordinance. Tonight, they would talk about definitions, exemptions, and how the funds would be applied. First, Russ brought up definitions. He identified elements that needed to be defined. The first definition discussed was primary residence. Russ read the recommended definition of primary residency. Russ asked if there were other items the Council wished to see to confirm primary residency, other than motor vehicle registration, driver's license or State ID card, voter registration or tax documents. The discussion became focused on enforcement and the affidavit that would be required from every homeowner in Town.

Next, the definition of rented was discussed. Russ asked whether the Council wanted to require a local employment or income requirement. The discussion focused on the term of not less than six months, and the word consecutive was added. Whelan thought it made sense to require employment. Schmidt was thinking of retired people. Haver asked what was meant by income requirement. Billick was not comfortable with an income requirement.

Russ defined residential unit and explained the proposed definition. Magner did not think condominium was a good term. Russ pointed out there were buildings with multiple units within them. Magner thought the term should say condominium unit. Russ read the proposed definition of taxable property and tax reference period.

Russ outlined exemption considerations. The Council began by discussing the death of a registered owner, or tenant, during the single taxing period, which prevented the taxable property from being rented for 180 consecutive days. Russ clarified to whom it would apply. Next, the exemption mentioned was that the owner was in care for up to two taxing periods, which prevented the taxable property from being rented for 180 consecutive days. Then, Russ reported on taxable property undergoing redevelopment or major renovations that required a building permit and temporary certificate occupancy which would prevent the taxable property from being rented for 180 consecutive days during a taxing period. Russ continued with reading the exemptions: the taxable property had a restrictive covenant requiring it to function as a long-term rental or other deed restrictions for affordable or workforce housing; and there was a court order prohibiting the taxable property's rental of 180 consecutive days of the tax reference period.

The last exemption considered and discussed in detail was that the owner would donate the Community Housing Tax equivalent (\$2,500) plus an administrative fee to a charitable organization that could only contribute its revenue to the Town of Crested Butte's Affordable Housing Fund. Billick did not have a problem with it. MacDonald pointed out that bonding would require certainty. Russ recognized there might be a need to bond immediately. MacMillan thought bonding was the priority. MacDonald suggested the Town, at minimum, maintain a list of acceptable organizations. MacMillan acknowledged it would be transferring income from one place to another, and it seemed like another loophole. The Council would discuss further at the next meeting.

Schmidt thought it was still compelling there were people who inherited houses. In the Oakland ordinance there were exemptions for hardships. He still thought they were punishing people who had been a part of the community for a long time. He stated there had to be something in the ordinance for people who owned houses for a long time. Green affirmed they could consider someone's income as an exemption. Billick would be more comfortable with length of time, which he thought would be simpler than going down the AMI path. Haver would like to see if there was a way to handle really long-term second homeowners. Russ briefly reviewed where affordable housing funds could go. He confirmed Staff would come back with the changes as discussed.

## **NEW BUSINESS**

### **1) 20 3<sup>rd</sup> Street Approval of Building and Accessory Dwelling Relocation.**

***Staff Contact: Community Development Director Troy Russ***

MacMillan recused himself and left the Council Chambers.

Russ provided background on the agenda item. Russ reported on estimated costs and work done by architects. The request was for a budget amendment that would relocate both the house and accessory structure. Russ compared the cost of moving the structures to building new structures. Staff recommended that Council consider amending the budget not to exceed \$550,000. Staff also recommended the units be Town-owned and Town-rented. Russ confirmed the building code did not require the stairs in the house to be upgraded. The chimney would be removed for the move but not replaced. Merrill thought the price gap between moving and building would have been larger, it would be better to build, but the sooner availability was worth it. Haver pointed out a new house would have a better layout, design, and less maintenance. Billick liked the quirkiness. Russ reviewed the timeline for relocation.

Whelan moved and Billick seconded a motion to authorize Staff to proceed with the request for proposals and select the appropriate contractor to relocate the house and relocate and redesign the accessory structure with a budget not to exceed \$550,000. A roll call vote was taken with all voting, "Yes," except for MacMillan, who had recused himself and did not vote. **Motion passed unanimously.**

MacMillan returned to the Council Chambers and voted on all the remaining motions.



**2) Resolution No. 20, Series 2021 - A Resolution of the Crested Butte Town Council Authorizing the Town Manager to Sign a Contract with the Crested Butte Land Trust for the Purchase of Property and Sale of a Conservation Easement for Kikel Lot 3.**

***Staff Contact: Parks, Recreation, Open Space and Trails Director Janna Hansen***

Hansen introduced Joey Carpenter and Jake Jones. Carpenter described the parcel and its location. He reported the conservation value was high, and the sellers were willing to take a fiscal hit to see the land preserved. Schmidt questioned the logic behind the Town holding the property and the Land Trust holding the conservation easement, which Jones explained. Schmidt asked what increased liability the Town had by owning the property. Green did not know of any. Jones pointed out Town would have management responsibilities. The conservation easement and conservation easements in general were discussed.

Haver moved and Whelan seconded a motion to approve Resolution No. 20, Series 2021 authorizing the Town Manager to sign a contract with the Crested Butte Land Trust for the purchase of property and sale of Conservation Easement for Kikel Lot 3 in the amount of \$1,000,000.00.

Billick thought it was completely appropriate to spend above appraisal. They had an obligation to clarify why, and he listed the reasons: 1) appraisals were not reflective of value in this current environment and 2) the conservation values and proximity to the Town and previous conservation efforts justified an expenditure above what the appraisal came in at. He wanted to be super clear about why they paid more public money than what the parcel appraised for.

A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**3) Discussion of Rezoning Request for Lot 2, Block 80 from the R-2A Zone District in the P District.**

***Staff Contact: Community Development Director Troy Russ***

Yemma reported they were looking forward to bringing a rezoning request to BOZAR. It would be the second version of what was previously going to be the SOAR build. Yemma explained what the students had completed before the project was placed on hold. Since then, Staff expanded the site plan to include a second lot because of the floodplain. Yemma outlined what would be included on the site. SOAR was unable to take on the project, so it would be incorporated into the RFP for Paradise Park. Yemma confirmed there would be public engagement with the neighborhood.

Yemma summarized they were looking for direction for the consideration of rezoning Lot 2 to P. They would bring forward the direction to BOZAR. Russ stated the triplex would look like others in Paradise Park. Green explained the Council needed to decide tonight whether to start the process with sending the rezoning request to BOZAR.

Billick moved and Haver seconded a motion to advance the consideration of rezoning Lot 2, Block 80 from the R-2A Zone District to the P District to BOZAR. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**4) Discussion of Zoning Modification to the Roof Pitch Requirements for Multifamily Structures Within the R-4 Zone District.**

**Staff Contact:** *Community Development Director Troy Russ*

Yemma informed the Council that Staff was looking for direction on moving the roof pitch zoning modification to BOZAR. They were asking to rewrite the provisions regarding roof slope to add a provision that a portion of flat roof could be considered for a multi-unit dwelling. The minimum requirement was limiting for large buildings and could make the mass look really big and out of context with the neighborhood. The proposal came from the 6<sup>th</sup> and Butte project, but the modification could be used elsewhere.

MacMillan moved and Haver seconded a motion to advance the consideration of modifying Section 16-4-490.b regarding minimum roof slope on larger multi-family buildings in the R4 Zone to BOZAR. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**5) Discussion of Zoning Modification to Modify the Definition of a Land Use, Congregate Housing and Allow it as a Conditional Use to Within the Tourist (T) Zone District.**

**Staff Contact:** *Community Development Director Troy Russ*

Schmidt confirmed the modification had to do with The Ruby and the Hostel. Russ pointed out that Staff did not recommend changes to the Code for parking. They were talking about the zoning amendment that would lead to a potential application.

Whelan moved and Merrill seconded a motion to advance the consideration of modifying Section 16-1-20, redefining congregate housing and Section 16-5-30, allowing congregate housing owned and operated by a public entity for the purposes of affordable or workforce housing as a conditional use within the (T) Zone District to BOZAR. A roll call vote was taken with all voting, "Yes." **Motion passed unanimously.**

**6) Appointments to Boards and Committees.**

**Staff Contact:** *Town Clerk Lynelle Stanford*

Appointments to Board and Committees were moved to the next meeting agenda.

**COUNCIL REPORTS AND COMMITTEE UPDATES**

Mona Merrill

- She attended the STOR meeting.
  - She referred to the update from Hansen in the Manager's Report.

- Updates regarding the RV dump came up at the meeting. There was some discussion around whether it was all managed, and they would potentially not enforce the two-year sunset. One good thing was the dump in Gunnison was not being closed.

Jason MacMillan

- Regarding the Mountain Express five-year plan, the operating budget did not balance. They were finding ways to adjust it.
  - Long-term capital was a challenge.
  - They talked about the Gothic Corridor.

Jasmine Whelan

- The dog program was up and running at Mountain Express.

Jason MacMillan

- Jeremy Herzog envisioned a progressive future for Mountain Express.
- The positive customer experience cost a lot of money during COVID.

Jasmine Whelan

- She attended the CML District Meeting.
  - There was an uptick on fentanyl overdose deaths. Colorado was a hot spot. They were recommending test strips to test cocaine for fentanyl. It was mentioned there was funding at the State-level.

Chris Haver

- There was an OVLC meeting. They talked about the Climate Action Plan.
- Mt. Crested Butte did not do the moratorium on STRs, but they upped the licensing fee to hire a STR staff person.
- They were starting Housing Matters, which would allow the GVRHA to be the entity lining up people to lease long-term rental properties.
- Homestead ran into issues.
- The Paintbrush Project should be open for rentals in the beginning of September.
- There was a walk-through of Whetstone.
- There would be an RFP on the parking lot next to the fairgrounds in Gunnison.
- Western was looking at five-acres next to Paintbrush.
- Gunnison was breaking ground on Lazy K.
- They were working on benefits of \$30K of technical assistance for going back and doing OVPP 2.0.
- There would be a Roadmap to Recovery meeting.

Jim Schmidt

- He went to a land board (Gunnison Valley Land Preservation Board) meeting where they awarded money to the Kikel Parcel and for a parcel around Gunnison.
- MacDonald and he attended CAST.
  - There was a lot of discussion about housing.

- There was a presentation on fire danger.
- There were vertical cuts on Monarch that were supposed to be fire breaks.
- MacDonald said they talked about the State's efforts on greenhouse gas emissions.
- There was a presentation on the plastic bag ordinance. Styrofoam was difficult to limit.
- Schmidt went to a Cemetery Committee meeting last Friday. They came up with recommendations for inclusion in the budget.

Mallika Magner

- The BLMCC was continuing to have regular meetings.
- The Executive Committee and other committees were very active.

### **OTHER BUSINESS TO COME BEFORE THE COUNCIL**

Schmidt brought up that the Council needed to review the Town Manager. The Council decided upon the date of September 27<sup>th</sup> for the time the Planning Commission meeting was previously scheduled.

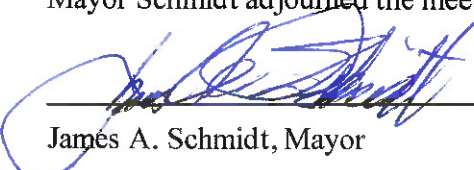
Magner wanted the Council to address the suggestion of finishing meetings before 10PM. The Council would give it a shot for the next meeting. Billick had recommendations regarding meeting preparation. Whelan agreed with Council members submitting written committee updates. Magner was less inclined to attend community meetings because she would hear the same presentation at a work session.

### **DISCUSSION OF SCHEDULING FUTURE WORK SESSION TOPICS AND COUNCIL MEETING SCHEDULE**

- Monday, September 20, 2021 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, September 27, 2021 - 6:00PM Planning Commission Meeting
- Monday, October 4, 2021 - 6:00PM Work Session - 7:00PM Regular Council
- Monday, October 18, 2021 - 6:00PM Work Session - 7:00PM Regular Council

**ADJOURNMENT**

Mayor Schmidt adjourned the meeting at 10:57PM.

  
James A. Schmidt, Mayor

  
Lynelle Stanford, Town Clerk (SEAL)

